

REMARKS

Applicants have received the Office Action dated November 3, 2008, in which the Examiner: 1) rejected claims 1-3 and 14-16 under the judicially created doctrine of obviousness-type double patenting as being allegedly unpatentable over Luciani, Jr. et al. (U.S. Serial No. 10/729,676, hereinafter "Luciani"); and 2) rejected claims 1-6 and 14-20 as allegedly obvious over Simionescu et al. (Publication No. 20030084337, hereafter "Simionescu") and Zhu et al. (Publication No. 20030084169, hereafter "Zhu").

With this Response, Applicants amend claim 1. Reconsideration is respectfully requested.

I. PROVISIONAL DOUBLE PATENTING REJECTION

Claims 1-3 and 14-16 are rejected provisionally on the grounds of non-statutory obviousness-type double patenting in light of claims 15-17 of Luciani. Because the rejection is a provisional double patenting rejection, Applicants respectfully request that this rejection be held in abeyance at least until all other objections and rejections against this case have been resolved.

II. ART BASED REJECTIONS

A. Claim 1

Claim 1 stands rejected as allegedly obvious over Simionescu and Zhu. Applicants amend claim 1 to more clearly define over the upgrade mode and normal (*i.e.*, non-upgrade) mode of Simionescu, and to more clearly define over the login scheme of Zhu utilizing a central computer.

Simionescu is directed to remotely controlled failsafe boot mechanism and manager for a network device. (Simionescu Title). Simionescu's Figure 1 is reproduced immediately below for convenience.

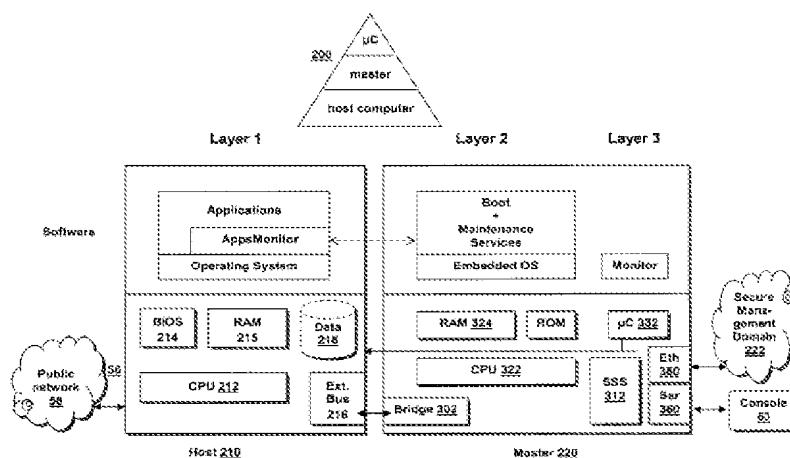


Fig. 2

In particular, Simionescu discloses a host computer 210. (Simionescu Paragraph [0027]). The master device 220 enables various functionality, such as governing the boot process of the host 210 (see, e.g., Simionescu Paragraph [0027]), and remote control of the host 210 through the master 220 (Simionescu Paragraph [0051]).

In addition to the functionality mentioned immediately above, Simionescu also discusses a “normal mode 410” and “upgrade mode 420,” shown in Simionescu’s Figure 4. The normal mode and upgrade mode of Simionescu refer to a mode of the master 220 in which the primary memory 326 of the master 220 may be updated.

[T]he master device includes a primary non-volatile memory 326 which contains the firmware of the master device (operating system and services) and governs the operation of the master. Preferably, primary memory 326 is a fast flash memory. The primary memory 326 is programmable to permit upgrades and modifications to the master device to suit user needs.

(Simionescu Paragraph [0035]).

In order to place the primary memory 326 into a reprogrammable mode, the master device must change its state of operation from a normal mode 410 to [an] upgrade mode 420, shown in FIG 4.

(Simionescu Paragraph [0036]). Thus, it appears that remote control of the host 210 through the master 220 is a different consideration altogether from the

normal mode and upgrade mode of the master 220, which appear to refer to protected modes for upgrading memory 326 within the master 220.

Representative claim 1, by contrast, specifically recites:

1. A method comprising:
logging into a remote computer by way of a management processor that resides within the remote computer, the management processor different than a central processing unit of the remote computer, and the logging into the remote computer initiates a console session being a default remote console session; and then
switching the console session between a default remote console session and a non-default remote console session.

Applicants respectfully submit that Simionescu and Zhu fail to teach or suggest such a system. In Simionescu, it does not appear that a console session to the master 220 changes character based on the normal mode and upgrade mode designations of the master 220; rather, the normal mode and upgrade mode appear to refer only to the ability or inability to update memory of the master 220. Thus, even if hypothetically the teachings of Zhu are precisely as the Office action suggests (which Applicants do not admit), Simionescu and Zhu still fail to teach or suggest “switching the console session between a default remote console session and a non-default remote console session.” For this reason alone the rejection should be withdrawn and the claims set for issue.

Moreover, the Office action relies on Zhu regarding the logging limitation. (Office action of November 3, 2008, Paragraph spanning pages 4 and 5). However, the portion of Zhu relied upon for the claimed “management processor” is, or is within, the central computer system 140. Thus, even if the teachings of Simionescu are precisely as the Office action suggests (which Applicants do not admit), Simionescu and Zhu still fail to teach “logging into a remote computer by way of a management processor that resides within the remote computer, the management processor different than a central processing unit of the remote computer.”

Based on the foregoing, Applicants respectfully submit that claim 1, and all the claims which depend on claim 1 (claims 2-6) should be allowed.

B. Claim 14

Claim 14 is rejected as allegedly obvious over Simionescu and Zhu.

Claim 14 specifically recites:

14. A computer system comprising a means for providing remote console to the computer system, wherein the means for providing switches to a default remote console session from a non-default remote console session.

Claim 14 is written in means-plus-function terminology, invoking 35 USC § 112, Sixth Paragraph. Section 112, Sixth Paragraph, recites:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification or equivalents thereof.

(35 USC § 112, Sixth paragraph).

Applicants respectfully submit that the Office action fails to make a *prima facie* case of obviousness regarding claim 14. The Office action combines the rejection of claim 1 (a method claim) and claim 14 (a structure claim). The Office action fails to point to any structure in Simionescu and/or Zhu to render obvious the structural limitation. Moreover, Simionescu and Zhu fail to teach or suggest a computer system having the claimed “means for providing remote console to the computer system, wherein the means for providing switches to a default remote console session from a non-default remote console session.”

Based on the foregoing, Applicants respectfully submit that claim 14, and all claims which depend from claim 14 (claims 15-20), should be allowed.

C. Claim 17

Claim 17 is rejected as allegedly obvious over Simionescu and Zhu.

Claim 17 specifically recites that “the default remote console session is adjustable between a software-based remote console session and a hardware-based remote console session.” Even if hypothetically assumed that Simionescu’s normal mode and upgrade mode are the claimed hardware-based and software-based console sessions (which Applicants do not admit),

Simionescu apparently fails to teach changing which of the upgrade modes is default, and in fact appears to teach that the normal mode is always default. (See, e.g., Simionescu's Figure 4 and related discussion).

Claim 17 is allowable for at least the same reasons as claim 14 from which it depends, as well as for the additional limitations therein..

III. CONCLUSION

In the course of the foregoing discussions, Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the cited art which have yet to be raised, but which may be raised in the future.

Applicants respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

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